

# **Helen Ferguson Tells**

## **Defense in Affidavit**

### **Of Advance by Conley**

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**Little Factory Girl Who Was a Star  
Witness for**

**State in Trial of Leo Frank  
Declares She Was**

**Bad in Trial of Leo Frank  
Declares She Was**

**Badly Frightened by Negro, Who  
Approached**

**Her Menacingly While in a  
Drunken State on**

**Saturday, April 19, at Same Spot  
Defense Says**

**Mary Phagan Was Slain—Says  
She Dropped**

**Boxes and Ran Upstairs to  
Escape Him.**

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**DENIES REPORT OF  
REPUDIATION**

**OF TESTIMONY SHE  
GAVE AT TRIAL**

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**Describes Visit Made to Her by C.  
W. Burke.**

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**Investigator for Defense—  
Mother Did Not  
Know for Month She Had Given  
Affidavit.  
Formby, Denying One She  
Gave Detectives  
Before Trial of Prisoner,  
Published Today in  
The Constitution for the First  
Time.**

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Helen Ferguson, the little factory girl who was a star witness for the state in Leo Frank's trial, told a reporter for The Constitution last night that Jim Conley had made drunken advances upon her the Saturday previous to the murder on the same spot on the first floor at which counsel for the defense contends the black sweeper slew Mary Phagan.

"It was on Saturday, April 19<sup>th</sup> she told the reporter, "I went from where I worked on the second floor to the first. I walked over to a d [illegible] place kinder behind the stairway. I started to pick up a box. I caught sight of the negro."

"He was drunk—seemingly as drunk as could be. I saw a whisky bottle in a hip pocket. He was staggering. His eyes looked queer, and they seem to know what he was doing. I was scared from the very way he picked up the box and started to hurry away."

“He came over toward me menacingly. I drew back. He strode to within arm’s length of me. He said something. I was so frightened I didn’t remember all of his words. Some of them were about the boxes. The rest of them he sorter mumbled, just like a drunk man.

# **GIRL BADLY FREIGHTENED.**

“I dropped the box as he pushed nearer me. I jumped to the stairs and ran up as fast as I could. I didn’t look back—I was too frightened –to see whether or not he was following me. I don’t think he was, though.”

The Ferguson girl told the Constitution that she had told this story in an affidavit to which she swore for C. W. Burke, a private investigator, in the employ of Luther Z. Rosser, senior counsel for Frank’s defense.

The affidavit was made, she stated, along about Christmas. Burke, she said, had come to the Clark woodenware plant, on Foundry street, where she was employed, and engaged her in conversation about the Frank case.

“Mr. Burke asked me,” she said to the reporter, “if I wouldn’t swear that I was mistaken about the time I went to Mr. Frank’s office on Friday and asked for Mary Phagan’s pay envelope. I told him no, as I had not been mistaken, and that I had told the truth. He said, something or other about the detective department being a bunch of crooks. Then he said that I was largely responsible for Mr. Frank’s conviction.”

## **Told Burke**

# About Conley.

"I wouldn't for anything on earth be responsible for the hanging of an innocent man,' he told me. Then we got to taking about Jim Conley, and in the course of the conversation, I told him about the day I had ...tered the negro on the first floor"

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Where Frank's friends say Conley killed Mary."

The Ferguson girl was the witness who went upon the stand and swore that on the Friday previous to Mary Phagan's murder, she had gone to Leo Frank in the pencil factory offices and asked for Mary Phagan's pay envelope. She swore that Frank told her that he could not let her have Mary's money, as Mary herself was coming to get it the following day.

This was denied by the superintendent. Miss Ferguson, however, told nothing of her story of the encounter with Conley on the preceding Saturday. She is said to have not even told her narrative to Solicitor Dorsey. She said to the reporter that she had never attached much importance to the happening until her conversation with Burke.

Mrs. Nancy Ferguson, the girl's mother, said to the reporter that she did not know her daughter had made the affidavit until at least a month later. She was told then, she said, by J. W. Coleman, Mary Phagan's stepfather, who had managed to get hold of it somehow.

# Afraid to

# **Tell Mother.**

Mrs. Ferguson questioned Helen, earning that the affidavit had been made. She said the girl had been afraid to inform her mother of the document. The mother, immediately upon learning of the affidavit, sought to communicate with Burke, but stated she was unable to do so.

Helen declared to the reporter that she had made no statement whatever pertaining to her testimony on the stand. She stated emphatically that it was the truth, and that she'd never repudiate it. She is now employed with the Clark Woodenware company. She lives with her parents at 617 Chestnut Avenue.

At the time of the tragedy, the Ferguson girl was employed at the National pencil plant. She lived in the neighborhood, with Mary Phagan, and they were intimate companions. It was she who first received the news of Mary's murder and was the first to convey it, to the Coleman home.

On the Monday following the murder, Mrs. Ferguson would not permit her daughter to return to the pencil factory. From that day on she has never worked there. She had been connected with the plant for probably a year before the crime.

It was on the Ferguson girl's testimony that the prosecution based its theory that Leo Frank had planned to meet Mary Phagan on the tragedy day, and that, in accordance with his plans, had arranged that the factory building would be practically deserted. Helen testified that she and Mary had been in the habit of getting each other's pay envelopes whenever either of them would be unable to visit the factory on pay days.

# **Said Frank**

# Refused.

She said that Frank had never refused to permit this. On the day prior to the murder, however, she stated she had gone to the pay window attached to Frank's office, and, in line ... a number of other girls, had.... The superintendent for the en-.... of her chum.

She quoted Frank as having said:

"I can't give it to you. Mary, herself is coming to get it tomorrow."

On the return trip to her Chestnut Avenue home Helen says she saw her on an inbound trolley car. They ....ed greetings. Mary, she said, was chilling. That was the last she saw of the pretty victim alive. The two girls had been companions for years. Helen is about the same age the dead girl would have been if she had lived—15 or 16 years.

The fact that the Ferguson girl's affidavit has been in possession of the defense since Christmas, strongly indicates that Frank's counsel holds an amount of just such evidence, which will be contained in their motion extraordinary for a new trial. Another indication of this is the Formby affidavit, which was made in October of last year, less than three months following the Frank trial.

The Constitution is able to make public for the first time the sensational affidavit of Mrs. Nina Formby. It is printed herewith in whole. She bears up in the document her accusations of the detectives, Chewning, Norris, Vickery, Hamby and Base Rosser.

A new figure is made public in her accusations by the publication of the affidavit. He is Base Rosser, against whom the defense has been known for some time to have had charges. The Formby woman says Rosser told her that Chewning and Noris

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were crooks, and that they were forced to stoop to anything in order to hold their jobs with the detective bureau.

# **Formby**

## **Affidavit.**

The affidavit is along the exact lines of her sensational interview printed in The Constitution Thursday morning, when she talked with a representative in New York, where she is now living. The affidavit, in its complete form, is as follows:

Mrs. Nina Formby's affidavit follows:

STATE OF NEW YORK, COUNTY OF NEW YORK—Nina Formby, being over twenty-one (21) years of age, deposes and upon her oath, says: I reside in the city of Atlanta, state of Georgia.

Two officers of the detective department of the police force, whose name are Norris and Chewning, called at my home early one Sunday afternoon, the date I cannot be sure of, but it was after Leo M. Frank had been arrested in connection with the murder of Mary Phagan, all of which had been published in the newspapers, and was my only source of information that Leo M. Frank was arrested.

They then made the murder of Mary Phagan the subject of their conversation and asked me if it was not a fact that Leo M. Frank had been to my house with Mary Phagan. I told them as positive and as certain as I knew how that it was not a fact and that any such inference was a lie. They continued to ask suggestive questions along the same lines, wanted to know if it was not also a fact that Leo M. Frank was in the "habit" of coming to my house with young girls and if it was not a fact that he was a degenerate, to all of which insinuations I replied in most positive language that he had not ever been to my house with young girls and that I knew nothing about Leo M. Frank that would in any

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ways suggest that he was a degenerate or any other sort of a man than a gentleman.

### **Told Them It Was False.**

Chewning and Norris also wanted me to admit that Leo M. Frank had talked with me on the telephone on the evening of April 26 and wanted to engage a room in my apartment for "himself and a young girl." Replying to this I again told the detectives that it was absolutely false. They also wanted to know if I did not believe that Leo M. Frank had killed Mary Phagan. I told them, with some warmth in my language, that I did not believe so and that they must know it was a lie. I made absolutely no admissions to Detectives Norris and Chewning about or in connection with Leo M. Frank or in connection with Leo M. Frank that could by any possible means require another call on me by them or any other members of the Atlanta police department in connection with the Mary Phagan murder in the future.

However, in about two hours after Chewning and Norris left my house Chief of Police Beavers and Chief of Detectives Lanford and Solicitor Dorsey called. At this call Lanford talked with me in my dining room: Chief Beavers and Solicitor Dorsey remaining in my parlor. Lanford put to me about the same interferences and suggestions that Chewning and Norris had made earlier in the day, wanted me to say and admit that Leo M. Frank had been to my house with Mary Phagan and my house with other "young girls" and that he had telephoned to me several times in the evening of April 26 and wanted a room for himself and a young girl, on which day the murder of Mary Phagan is said to have occurred, and I refused to admit any of the suggestions or make any of the statements derogatory to Leo M. Frank.

He also asked me to go to the Tower and call on Leo M. Frank and that he would have his secretary, Mr. Febuary, go in behind me and when I should engage Leo M. Frank in conversation, the secretary would come near enough to overhear our conversation and to make stenographic notes. He even

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suggested an outline of the conversation I was to have with Leo M. Frank, saying that undoubtedly Frank would not at first recognize me or admit that he knew me, but that I should continue to talk with him and express my sympathy for him in his predicament, and that I should say in the conversation that when he talked with me over the telephone on April 26 that I did not expect to see him in the Tower afterwards. I refused absolutely to agree to this arrangement, and as there had been no telephone conversation between Mr. Leo M. Frank and me or any other single thing of truth in the suggestions and statements made by Chief Lanford as occurring between Leo M. Frank and myself over a telephone or otherwise.

### **Did Not Talk of Case.**

Neither Chief Beavers nor Solicitor Dorsey talked to me about the Mary Phagan murder or made any suggest whatever relating to that crime. Chief Lanford talked with me in the dining room for about twenty or twenty-five minutes. We then returned to the parlor, where Solicitor Dorsey and Chief Beavers were, and the party remained in the house about three-quarters of an hour, and I have never talked with either of these men since that visit. I will state however, that Detectives Chewning and Norris called at my house again later that Sunday night, after Lanford, Beavers and Dorsey had left, but I did not see them. My maid told me of their call.

On the following Monday afternoon Detectives Chewning and Norris again called at my house, and on this occasion brought a bottle of whisky, which they set out on the table between us and invited me to drink. They then went over practically the same story and questions that they did on the previous day, concerning Leo M. Frank and the Mary Phagan murder; tried to cajole me and argued that I should "stand in" with Chief Lanford and themselves, and boldly and plainly asked me to "Stand for" the statements that they had suggested to me as to Leo M. Frank coming to my house with Mary Phagan and other young girls, and that he was a degenerate, all of which I again absolutely refused

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to do, and told them that they themselves knew that all such inferences and statements were lies. They went so far as to say that they could do me harm if I did not agree to stand for this story.

Chewning and Norris called at my house again the following Tuesday. Wednesday and Thursday in the afternoon of these days and on each occasion brought a bottle of whisky with them and went over the same ground and outlined, practically, as I have stated above, continuing their juring of me to stand for the story and allegations outlined by them. On each and every occasion I refused, and told them if they knew anything that it was all false, and that I would not, under any circumstances, be made a party to it, and that I did not want to get my name in the newspapers or any notoriety in connection with the Mary Phagan matter. Norris and Chewning then said that if I would make a statement along the lines outlined by them that they would see that it did not get into the newspapers. One each of the calls that they made at my house they played cards. On three of the occasions, when Norris and Chewning were at my house, others were present and saw them there.

I deeply regret that I did not appreciate more keenly the effect that the publication of the story herewith had upon the public, standing as it has until today undenied by me, but I was annoyed and pestered by the police officers in this matter and failed to see or realize the injury that the circulation of these published lies attributed to me had upon the public and the welfare of Leo M. Frank, and now realizing them as I do, after all the excitement and public clamor has died away, I owe it to myself, to Mr. Frank and to the public to deny this false story and set myself right before them.

I would further state that since the publication of this story, on May 23, I have not talked with the police officers, Norris and Chewning, or Chief Lanford about this story, but on September 27 I met Detective Bass Rosser in the post office, in Atlanta, and with him talked about the story that had been published in the Atlanta

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papers, wherein my name had been used. Rosser knew that Chewning and Norris were the ones responsible for the stories published in which my name had been used, and he expressed his regret that I had been so unfairly treated by them, and added, by way of sort of explanation or justification, that Chewning was in a bad way in the police department and he had to stoop to most anything to hold his job.

(Signed) MRS. NINA FORMBY.

Subscribed and sworn to before me this 30<sup>th</sup> day of October, 1913.

(Signed) FRANZ SIEGELL IL.,

Notary Public, New York County.

### **New Evidence for Defense.**

A new and decidedly interesting phase of the new evidence to be submitted by the defense in its plea for a new trial for Leo Frank is reported to be the disclosure of an examining medical expert—presumably Dr. H. F. Harris—that bits of sawdust were discovered far up in the nose of the murdered girl.

The revelation, it is said, will be used as further substantiation of the defense theory that Conley is the murderer. Medical authorities agree that if sawdust was found in the deeper channels of the victim's nose it was carried there by the suction created by respiration.

The argument to be built around this reported piece of evidence, it is said, is that the only spot in which the slain girl's body was carried that had sawdust was the basement, in which the crime was discovered. The theory, therefore, is that the girl was alive at the time she was borne into the basement, and that as she lay face downward where her body had been deposited, she breathed into her head the particles of sawdust into which her nose was sunken.

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**Defense Is Silent.**

No affirmation of this latest rumor could be obtained from the camp of the defense. No one associated with the convicted man's defense had anything to say Saturday on any subject. Counsel is busy putting the new evidence already accumulated into shape and in readiness for the motion extraordinary for a new trial.

Members of the defense could give no definite idea Saturday of the date they would make application for retrial. It is expected, however, that the motion will be filed very soon after the remittitur is sent down from the supreme court and the date of execution is set by Judge Ben Hill. This is expected next Monday some time.

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### **Barrett Seeks Reward.**

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"Christopher Columbus" Barrett, the mechanic who discovered the hair and blood spots on the lathe on the second floor of the pencil factory plant, will appear before a committee of council at the city hall Monday morning for a hearing of his claim to the city's reward for the arrest and conviction of Mary Phagan's slayer, some \$2,000 in all.

His attorney, Lawton Nalley, stated to a reporter for The Constitution Saturday afternoon that the rumor was ungrounded that Barrett had repudiated his testimony given at the Frank trial. It was reported previously that the young mechanic had made an affidavit denying damaging portions of his statement on the stand.

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## **PDF PAGE 19, COLUMN 5**

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*FORMER CLASSMATE OF  
FRANK*

# *MAKES APPEAL IN HIS BEHALF*

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Editor Constitution: The adverse decision of the supreme court of Georgia denying Frank a new trial is a stunning blow, indeed. But thousands of law-abiding citizens of the land feel that the life of an innocent man is about to be snuffed out by the gripping tentacles of a merciless legal monster. And it does seem incomprehensible that the people of Georgia will be satisfied with the case as it stands today.

I have the utmost respect for the learning and wisdom of the supreme court judges of Georgia. Still, one cannot help feeling that their decision was chiefly based upon cold, legal technicalities and involved tortuosities of legal procedure. In spite of that, two of the six judges voted in Frank's favor! And a man must hang even though the chief justice and one of his colleagues feel that he should have a new trial!

As I stated in my previous letter, I was a classmate and chum of Leo M. Frank while at Cornell. There I learned to love and respect him as I did few men. And that love and respect was shared alike by all his classmates who came into contact with him. He was considered a model Cornellian. He was never addicted to any excesses or vices. His life was clean and wholesome. Friends he made easily, and deservedly so. It was a pleasure and a privilege, indeed, to me that I could count him among my friends. Scholarly, highly intelligent, clean-souled and blessed with a genial kindness, he was a credit to his friends and to himself.

How horrible, then, is the fact that such a man could, through the meshes of the law, be stamped as a degenerate! Degeneracy is never manifested by one sudden outburst of crime in a previously normal and exemplary man. And if Frank be a degenerate, then circumstantial evidence and a vicious

prosecution can make a degenerate of any living man charged with a crime!

The record of the trial of Frank reads like a dreadful and impossible romance. And I have carefully, studied the daily accounts of the trial in the Atlanta papers. To thinking, reasonable and justice-loving people, it seems utterly beyond the realms of comprehension that Frank could be convicted on the evidence presented.

How could the people of Georgia prefer the lying words of a negro who perjured himself many times during the course of the trial and who was a habitual jail-bird, to the statement of a white man of enviable and previously unsullied reputation? The flimsy fabric woven by Conley was permeated with lies all the way through. First, he denied that he could write! Then he confessed that he could! What significance has that, when taken in connection with the finding of the two notes besides the body of poor little Mary Phagan? The very fact that the two notes were written at all shows of what a low order of intelligence the writer must have been. Here was an attempt to make the discoverers of the body believe that the poor little victim wrote the notes. In the mutilated condition of Mary Phagan's body, and with a rope around and deeply sunk in her neck, it would have been absolutely impossible for the little victim to have written the two notes. And only a human beast of a very low order of intelligence could have failed to see that. But even the prosecution must admit that Frank is of a high order of intelligence!

The two notes were, therefore, simply the panic-stricken and clumsy attempt of an ignorant criminal to conceal his crime. How can any other explanation exist?

It is, furthermore, utterly incomprehensible that men were found willing to believe that Frank could make a confidant of Conley if he had committed the crime. If Frank had murdered Mary Phagan, and no one saw him do it, why should he voluntarily have confessed the crime to Conley? Would he not rather have kept the crime secret from every human soul?

Conley claimed that the body was taken down into the cellar by means of the factory elevator, and yet working men on the top floor of the factory swore that the elevator wheels and chains never moved during the afternoon when the body was supposed to have been removed to the cellar. And yet, Conley's word was here again taken in preference to everybody's else. What magical, hypnotic effect has this Conley that his lying words were taken as gospel truth?

It passes human understanding that a good man could be condemned to die when the chief witness against him had repeatedly and admittedly lied. How could the good people of Atlanta believe one single word of Conley after such a series of colossal lies and fabrications? Who could conscientiously and honestly say when Conley spoke the truth?

Somehow or other, I feel that Leo M. Frank will be cleared of the crime for which he is sentenced to die. I feel that incongruous legal net which has been woven around him will be disentangled. I know that they wish justice and truth to prevail. And just because I have that faith in the people of Georgia do I feel all the more that Frank will not suffer for another's crime.

In conclusion, I pray God that mistake is made, and that the people of Georgia will never have to suffer the deepest remorse for having killed an innocent man.

MORRIS J. CLURMAN,

A. B. M. D.

Bronx, New York,

1613 Washington Avenue,  
February 20, 1914.

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